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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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45848	7590	09/27/2005	EXAMINER	
MICHAEL WINFIELD GOLTRY 4000 N. CENTRAL AVENUE, SUITE 1220 PHOENIX, AZ 85012			ADAMS, GREGORY W	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,786

Applicant(s)

RUCH, BYRON M.

Examiner

Gregory W. Adams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Handwritten mark resembling a stylized 'A' or 'R'.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 11-13, & 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunham (US 2,616,578).

With respect to claim 1, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 comprising a base 14, lift mechanism 23, 56, drive linkage 38, 42, 52, 46, 63, 67 coupled between a base 14 and lift mechanism 23, 56, leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled between a base 14 and lift mechanism 23, 56, and a cylinder 15 coupled to a drive linkage 38, 42, 52, 46, 63, 67.

With respect to claim 2, referring to FIGS. 1-3 Dunham discloses a drive linkage 38, 42, 52, 46, 63, 67 which includes a drive link 52 pivotally coupled to a base 14, a drive arm 42 pivotally coupled to a drive link 52 and lift mechanism 23, 56.

With respect to claim 3, referring to FIGS. 1-3 Dunham discloses a drive linkage 38, 42, 52, 46, 63, 67 includes a drive link 52 pivotally coupled to a base 14, a drive arm 42 pivotally coupled to a drive link 52 and lift mechanism 23, 56.

With respect to claim 4, referring to FIGS. 1-3 Dunham discloses a leveling linkage 81, 67, 63, 45, 79, 78, 77 includes a leveling link 76, 78, 77, 63 pivotally coupled

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to a base 14, stop link 67 pivotally coupled to a leveling link 76, 78, 77, 63, and a rod 39 and leveling arm 45 pivotally coupled to a stop link 67 and lift mechanism 23, 56.

With respect to claim 5, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 further including a second drive linkage 38, 42, 52, 46, 63, 67 coupled with a base 14 and lift mechanism 23, 56, and a second leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled with a base 14 and lift mechanism 23, 56.

With respect to claim 6, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 further including a frame 13, 13, 26, 95 pivotally coupled to a base 14 and terminating in a journalled rod 39, 39 which extends through a frame 13, 26, 95, drive linkage frame 13, 26, 95 and drive linkage drive arm 42, and a second drive linkage frame 13, 26, 95 and second drive linkage drive arm 42 and coupled by a frame 13, 26, 95 to a drive linkage 38, 42, 52, 46, 63, 67.

With respect to claim 7, referring to FIGS. 1-3 Dunham discloses a leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled to a rod 39 by a stop link 67 and a second leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled to a rod 39 by a second stop link 67.

With respect to claim 8, referring to FIGS. 1-3 Dunham discloses a lift mechanism 23, 56 enabled with a drive linkage 38, 42, 52, 46, 63, 67, and a lift mechanism 23, 56 disabled with a drive linkage 38, 42, 52, 46, 63, 67.

With respect to claim 11, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 comprising a base 14, lift mechanism 23, 56, first drive linkage 38, 42, 52, 46, 63, 67 coupled between a base 14 and lift mechanism 23, 56, second drive linkage 38, 42, 52, 46, 63, 67 coupled with a base 14 and lift mechanism 23, 56,

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first leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled between a base 14 and lift mechanism 23, 56, second leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled with a base 14 and lift mechanism 23, 56, frame 13, 26, 95 pivotally coupled to a base 14 and terminating in a journalled rod 39, 39 which extends through a frame 13, 26, 95, drive linkage frame 13, 26, 95 and drive linkage drive arm 42, and a second drive linkage frame 13, 26, 95 and second drive linkage drive arm 42, and a cylinder 15 coupled between a base 14 and frame 13, 26, 95.

With respect to claim 12, referring to FIGS. 1-3 Dunham discloses a first leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled to a rod 39 by a first stop link 67, and a second drive linkage frame 13, 26, 95 coupled to a rod 39 by a second stop link 67.

With respect to claim 13, referring to FIGS. 1-3 Dunham discloses a lift mechanism 23, 56 is enabled with a first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67 when retracted and extended, and disabled with a first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67 in between extended and retracted configurations.

With respect to claim 16, referring to FIGS. 1-3 Dunham discloses a vehicle loader mechanism 5, 13 comprising a base 14, lift mechanism 23, 56, frame 13, 26, 95 pivotally coupled to a base 14, first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67 coupled in parallel between a base 14 and lift mechanism 23, 56, first drive link 52 pivotally coupled to a base 14, first drive arm 42 pivotally coupled to a first drive link 52 and lift mechanism 23, 56, second drive link 38, 42, 52, 46, 63, 67 pivotally coupled to a base 14, second drive arm 42 pivotally coupled to a

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second drive linkage drive link 38, 42, 52, 46, 63, 67 and lift mechanism 23, 56, a rod 39 journaled concurrently through a first drive arm 42, frame 14 and second drive linkage drive arm 42, first leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled between a base 14 and lift mechanism 23, 56, second leveling linkage 81, 67, 63, 45, 79, 78, 77 coupled between a base 14 and lift mechanism 23, 56, first leveling link 76, 78, 77, 63 coupled to a base 14, second leveling link 76, 78, 77, 63 coupled to a base 14, first stop link 67 pivotally coupled to a first leveling link 76, 78, 77, 63 and rod 39, first leveling arm 45 pivotally coupled to a first stop link 67 and lift mechanism 23, 56, second stop link 67 pivotally coupled to a second leveling link 81, 67, 63, 45, 79, 78, 77 and rod 39, second leveling arm 45 pivotally coupled to a second stop link 67 and lift mechanism 23, 56.

With respect to claim 17, referring to FIGS. 1-3 Dunham discloses a lift mechanism 23, 56 enabled with a first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67 when retracted and extended, and disabled with a first drive linkage 38, 42, 52, 46, 63, 67 and second drive linkage 38, 42, 52, 46, 63, 67.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 14, & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunham (US 2,616,578) as applied to claims 1, 11, & 16 above, and further in view of Olson (US 4,274,794). Dunham discloses a vehicle loader mechanism except for limit

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switches. Olson '794 discloses a vehicle loader mechanism 10 with limit switches 174, 196 mounted proximate cylinders 66, 108. Olson '794 teaches that limit switches limit maximum frame 16 movement in both directions. Col. 11, Ins. 52-59. Therefore, it would have been obvious to one skilled in the art to modify the vehicle loader mechanism of Dunham to add limit switches proximate cylinders, as per the teachings of Olson, to limit maximum frame movement in both directions.

Claims 10, 15 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunham (US 2,616,578) as applied to claims 1, 11, & 16 above, and further in view of Poindexter (US 5,651,657). Dunham discloses a vehicle loader mechanism except for carrying a base on tracks mountable in a vehicle. Poindexter discloses a vehicle loader mechanism 10 including a base 120 carried by tracks 33, 34 mountable in a vehicle. Poindexter '657 teaches that installing a base of a vehicle loader mechanism on tracks mountable in a vehicle with insignificant modifications to the vehicle provides lifting, reorientating, and loading of overheight loads into the vehicle. Therefore, it would have been obvious to one skilled in the art to modify the vehicle loader mechanism of Dunham to allow for carrying a base on tracks which are mountable in a vehicle, as per the teaching of Poindexter, such that insignificant vehicle modifications are required in providing a lifting, reorientating, and loading of overheight loads into the vehicle.

Response to Arguments

Applicant's arguments filed June 13, 2005 have been fully considered but they are not persuasive.

With respect to claims 1, 5 & 11, applicant argues that Dunham does not disclose a base. By way of clarification, a base is a foundation, www.dictionary.com, which supports the remainder of the apparatus. Dunham discloses a base 14 which ties supports of a loader mechanism to a fork truck cargo deck. Page. 1. Applicant essentially concedes this in its remarks, page 13, lines 15-22. Moreover, applicants argument that Dunham does not disclose a lift mechanism mounted on a cargo deck is not a feature claimed in the instant application. Finally, a lifting mechanism may be a fork truck mast, cylinder, winch, cable, gear, motor and forks could a lift. Broadly construed, mechanism is unlimited in its definition.

With respect to claim 2, applicant argues that the Non-final office action dated March 10, 2005 fails to disclose a drive linkage, but did not disclose arguments as to how applicants apparatus taught over the cited prior art. By way of clarification, Dunham discloses a drive linkage 38, 42, 52, 46, 63, 67 which includes a drive link 52 pivotally coupled to a base 14, a drive arm 42 pivotally coupled to a drive link 52 and lift mechanism 23, 56.

With respect to claim 3, applicant argues that the Non-Final office action fails to indicate any teaching of a frame or rod but does not include reasoning. Thus, applicants arguments are without merit.

With respect to claim 4 & 11, applicant argues that the Non-Final office action fails to disclose a rod that is journaled through a frame and base. By way of further clarification, Dunham discloses a base 14 and a frame 13 and rods 39 (and/or 62) which couple a frame to a base. Dunham's rods allow a frame to articulate in a lateral motion.

With respect to claim 6, applicant argues that Dunham does not disclose a frame pivotally coupled to a base. By way of further clarification, Dunham discloses a base 14 and a frame 13, wherein a frame 13 is pivotally coupled to a base 14. Dunham discloses a pivotal connection to allow a pusher element to extend past the end of a lifting mechanism 23, 56.

With respect to claim 7, see arguments related to claims 1, 5 & 6.

With respect to claim 8, applicant argues essentially that the drive linkage effects a lift mechanism. Applicant recites a condition, i.e. when X is true, Y occurs. In other words broadly construed, claim 8 recites a condition comprising operating a lift mechanism after a drive linkage is retracted. Claim 8 provides no relevant structure to inform one skilled in the art as to an operating connection between the two elements. Thus, Dunham discloses a drive linkage that is retracted prior to a lift mechanism operating for loading a load onto a lifting mechanism. When Dunham's lift mechanism reaches a proper height, a lift mechanism is deactivated and a drive linkage extend, pushing a load off a lift mechanism.

With respect to claim 11, in addition to above noted arguments applicant argues that Dunham does not have a cargo deck. Assuming applicants arguments are correct, its now unclear whether applicant is claiming a loader mechanism or a loader mechanism in combination with a vehicle. However, its unnecessary to visit this because Dunham discloses a vehicle, i.e. a fork truck, which has a deck of some kind else the load mechanism has nothing in which to attach. It is noted that Dunham does

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not disclose a vehicle having a rear deck comprising a horizontal surface and three upward walls extending therefrom.

With respect to claim 14, see applicants arguments relating to claims 4 & 11.

With respect to claim 15, see applicants arguments relating to claims 8 & 11.

With respect to claim 13, see applicants arguments relating to claims 1-7, 11 & 12.

With respect to claim 17, see applicants arguments relating to claims 1, 8, 11, 13 & 16.

With respect to claims 9, 14 & 18, applicant failed to provide reasoning except to note that the teaching reference Olson does not disclose limit switches. As noted above, Olson discloses limit switches to limit frame movement. Thus, applicants arguments are without merit.

With respect to claims 10, 15 & 19, applicant argues that there is no structure in Dunham to allow for providing base tracks. As noted above, Poindexter teaches the combination of tracks to a vehicle cargo deck. Be it large or small, Dunham provides the connecting surface, i.e. cargo deck, upon which Poindexter teaches track can be placed to "lift, reorient, and load overheight loads into the vehicle." See Non-final Office Action, page 7.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GWA


JAMES W. KEENAN
PRIMARY EXAMINER